



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

August 5, 1947

Hon. H. L. Roberson
County Attorney
Winkler County
Box 307
Kermit, Texas

Opinion No. V-329

Re: Construction of H.B.
785, 50th Leg., relative
to salaries of county
officials in counties
having a population of
less than 20,000 inhabi-
tants.

Dear Sir:

Your letter requesting an opinion from this
Department on the above subject matter is as follows:

"The Commissioners Court of Winkler
County has requested that I write you for
an opinion on the H. B. No. 785.

"When, or on what date, does this be-
come a law?

"Who are the County Officials; does
this include the Commissioners, Constables
and Justices of the Peace?

"The Elective Officials in Winkler
County are on a salary basis and their
salaries were set during the month of
January, for the year of 1947. However,
since the Legislature has passed this
H.B. 785, giving these same officials a
raise, does the Commissioners Court have
the authority to raise the salaries for
the balance of this year?"

H. B. No. 785, Acts of the 50th Legislature,
provides as follows:

"Section 1. In all counties of this
State having a population of less than
twenty thousand (20,000), according to the
last preceding Federal Census, and in which
counties the Commissioners Courts have de-
termined that the county officials shall be

compensated on a salary basis, such Commissioners Courts are authorized to fix the salaries of county officials in such counties, their deputies, clerks and assistants. Said compensation shall be paid in monthly or semimonthly installments, as said Court may determine. Provided, however, that no salary fixed herein by such Commissioners Court shall be in an amount to exceed Five Thousand, Four Hundred Dollars (\$5,400) for the County Officers and in an amount of Three Thousand, Six Hundred Dollars (\$3,600) for Deputies, Assistants, and Clerks; provided, further that no salary shall be set at a figure lower than that paid for the Calendar Year 1946.

"Sec. 2. All laws and parts of laws, in so far as the same apply to counties within the provisions of this Act, shall be, and the same are hereby, repealed to the extent of such conflict.

"Sec. 3. The fact that county officials and deputies, clerks and assistants in the counties within the provisions of this Act are inadequately compensated for their services; the fact that said counties are losing and will continue to lose the services of valuable officials and county employees unless such compensation is increased; the further fact that many counties of this State within the population limits provided in this Act have large financial resources by reason of which heavy responsibilities are placed on some county officials; and the fact that said officials and employees cannot be properly compensated under the present Statutes; the further fact that the local officials of the counties within the provisions of this Act are far more competent than the Legislature to determine the fair and reasonable compensation for such officials and employees; the further fact that it is a sound principle of government to leave the local affairs as nearly to the people as possible; and the further fact that the county officials in said counties will be responsible to the people of such Counties for their acts creates an

emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House of the Legislature be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

"Passed the House, May 15, 1947: Yeas 119, Nays 5; House concurred in Senate Amendments, June 3, 1947; Yeas 102, Nays 10; passed the Senate, as amended, June 3, 1947: Yeas 30, Nays 0.

"Approved: June 12, 1947"

Since H. B. 785 contained an emergency clause and passed with the necessary two-thirds vote of each house, it became effective on June 12, 1947, the date upon which it was approved by the Governor. Texas Constitution, Art. III, Section 39.

Winkler County, according to the last preceding Federal Census, had a population of 6,141 inhabitants, and we are informed by the Comptroller's office that its county officials are compensated on a salary basis. Therefore, H. B. No. 785 is applicable to Winkler County.

We quote the following from 39 Tex. Jur. pp. 252, 253:

"A statute will be construed so that it will harmonize with other existing law, unless its provisions clearly manifest a contrary intention. Thus where the literal language of one act conflicts with that of another, they should be read together and harmonized, if possible, so as to give effect to each of them."

We therefore deem it pertinent to quote the following statutory provisions:

Article 3912e, Section 2.

"The Commissioners' Court of each county in the State of Texas, at its first regular meeting in January of each calendar year, shall, by order made and entered in the minutes of said court, determine whether precinct

officers of such county (except public weighers and registrars of vital statistics) shall be compensated on a salary basis as provided for in this Act, or whether they shall receive as their compensation, such fees of office as may be earned by them in the performance of the duties of their offices. . . ."

Article 3912e, Section 15.

"The Commissioners' Court in counties having a population of less than twenty thousand (20,000) inhabitants, according to the last preceding Federal Census at the first regular meeting in January of each calendar year, may pass an order providing for compensation of all county and precinct officers on a salary basis."

Article 3912e, Sec. 17.

"(a) The term 'Precinct Officers' as used in this Act means justices of the peace and constables."

It is apparent from the above quoted provisions of the "Officers' Salary Law" that the Legislature has made a distinction between county officers and precinct officers. The Legislature apparently had this in mind when it used the term "in which counties Commissioners' Courts have determined that the county officials shall be compensated on a salary basis." Since Article 3912e, Sec 17, defines precinct officers (as distinguished from county officers) as the justices of the peace and constables, it is our opinion that H.B. 785 is not applicable to justices of the peace and constables.

In connection with your question as to whether or not H.B. 785 is applicable to county commissioners, we direct your attention to the fact that said Act is a comprehensive statute providing for salaries of county officials in counties having a population of less than 20,000 inhabitants according to the last preceding Federal Census; and, therefore, it operates in effect to amend Section 15 of Article 3912e. The compensation of county commissioners is not governed by Article 3912e, Section 15, but by Article 2350, as amended by H.B. 84, Acts of

the 49th Legislature, which is a statute dealing with county commissioners specifically. According to the last mentioned Article, the salaries of county commissioners are based upon the assessed valuation of the various counties.

We quote the following from 39 Tex. Jur., pp. 254-257:

"In order to arrive at a proper construction of a statute, and determine the exact legislative intent, all acts and parts of acts in pari materia will, therefore, be taken, read and construed together, each enactment in reference to the other, as though they were parts of law. Any conflict between their provisions will be harmonized if possible, and effect will be given to all the provisions of each act if they can be made to stand together and have concurrent efficacy.

"The purpose of the in pari materia rule of construction is to carry out the full legislative intent, by giving effect to all laws and provisions bearing upon the same subject. It proceeds upon the supposition that several statutes relating to one subject are governed by one spirit and policy, and are intended to be consistent and harmonious in their several parts and provisions. The rule applies where one statute deals with a subject in comprehensive terms and another deals with a portion of the same subject in a more definite way."
(Emphasis ours)

By construing Article 3912e, Sections 2, 15 and 17, Article 2350, and H.B. 785 together in accordance with the above rule of statutory construction, it is our opinion that the Legislature did not intend to amend Article 2350, dealing with county commissioners specifically. Although county commissioners are county officers, it is our opinion, in view of the foregoing, that H. B. 785, Acts of the 50th Legislature, is not applicable to them, but is only applicable to those county officials covered by Section 15 of Article 3912e.

In answer to your third question, it is our opinion that any increase in salary for the year 1947 must be

in the same proportion as the remainder of the year is to the total annual increase that may be made under H. B. 785. (See our Opinion V-222, a copy of which we are herewith enclosing.)

It is our further opinion that the increase, if any, can only be from the date that the Commissioners' Court grants the increase and amends the budget accordingly. In this connection, we direct your attention to Article 689a-11 which provides in part as follows:

"When the budget has been finally approved by the Commissioners' Court, the budget, as approved by the Court shall be filed with the Clerk of the County Court, and taxes levied only in accordance therewith, and no expenditure of the funds of the county shall thereafter be made except in strict compliance with the budget as adopted by the Court. Except that emergency expenditures, in case of grave public necessity, to meet unusual and unforeseen conditions which could not, by reasonably diligent thought and attention, have been included in the original budget, may from time to time be authorized by the Court as amendments to the original budget. In all cases where such amendments to the original budget is made, a copy of the order of the Court amending the budget shall be filed with the Clerk of the County Court, and attached to the budget originally adopted."

SUMMARY

(1) H. B. 785, 50th Legislature, relative to county officials in counties containing less than 20,000 inhabitants, is only applicable to the sheriff, assessor and collector of taxes, county judge, county attorney, district attorney, district clerk, county clerk, treasurer and hide and animal inspector, and is not applicable to justices of the peace, constables, or county commissioners; having passed with the necessary 2/3 vote of each House, it became effective on June 12, 1947.

(2) Any increase in compensation for the year 1947 must be in the same proportion as the remainder of the year is to the total annual increase that may be made and must be in compliance with the budget law. Art. 689a-11, V.C.S.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By 
John Reeves
Assistant

JR:wb;djm

Enclosure

APPROVED:

PRICE DANIEL
ATTORNEY GENERAL